

**AGENDA  
ZONING BOARD OF ADJUSTMENT  
MARCH 2, 2020**

**AGENDA ITEM #3B  
PUBLIC HEARINGS**

**EM & EE BOISVERT SR, CO-  
TTEES, 237 HANOVER  
STREET EXT (Tax Map 64,  
Lot 2), zoned R-3**



## CITY OF LEBANON ~ PLANNING & DEVELOPMENT

### ZONING BOARD OF ADJUSTMENT

March 2, 2020 Meeting

Staff Memorandum – #ZB2020-07-SE

#### **APPLICATION INFORMATION**

**Agenda Item:** 3.B

**Application Type:**

Special Exception per Section 703.1 to change one non-conforming use to a different non-conforming use

**Location:** 237 Hanover St Ext (64-2)

**Applicant/Property Owner:**

EM & EE Boisvert Sr, Co-Trustees

**Zoning District:**

Residential Three (R-3) District

**Property Size:**

+/-0.65 acres (28,314 sq. ft.) (per the City Assessor's records)

**Existing Improvements and Use:**

+/-6,700 sq. ft. commercial building constructed in 1950 (per the City Assessor's records), most recently used as an auto maintenance/vehicular repair business

**Proposed Use:**

A recycling facility

**Overlay Districts:** none

**Previous ZBA Action (since 1995):**

none

**Other Approvals Required**

**(including but may not be limited to):**

- Building Permit
- Additional information is needed in order to determine if site plan review is required

**Attachments:**

Application (5 pages total)

#### **HEARING NOTICE**

**EM & EE BOISVERT SR, CO-TTEES, 237 HANOVER STREET EXT (Tax Map 64, Lot 2), zoned R-3:** Applicant requests a Special Exception pursuant to Article VII, Section 702.1 to permit a change from one non-conforming use (Vehicular Repair) to another non-conforming use (Storage and Recycling Facility). #ZB2020-07-SE

#### **BACKGROUND & PROPOSAL**

The subject property is developed with one-story commercial building that was most recently used for a vehicular repair business, a non-conforming use in the R-3 District. The application materials do not indicate when that use ended, nor does it provide any information with respect to the scope and operation of the most recent use.

At this time, the applicants are seeking a Special Exception pursuant to Article VII, Section 702.1 of the Zoning Ordinance to change the non-conforming vehicular repair use of the building to a recycling facility (see the "project description" in the Support Statement included in the applicants' materials for a more precise description of the proposed use). The use as described by the applicant is not permitted in the R-3 District, which is primarily intended for single-family dwellings.

#### **ORDINANCE REQUIREMENTS**

Section 702.1 of the Zoning Ordinance states, in part: "A non-conforming use may, as a Special Exception, be changed to another non-conforming use provided that the Board of Adjustment shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use."

In order to grant a Special Exception to change one non-conforming use to a different non-conforming use, the applicants must demonstrate that the proposal meets the general Special Exception criteria, set forth in Section 801.3 as follows:

- A. The Special Exception is specifically authorized by a provision of this Ordinance. *Note: The Special Exception is authorized by §702.1 of the Zoning Ordinance.*
- B. All special conditions required of the special exception have been met. *Note: Per §702.1 of the Zoning Ordinance, the applicant must demonstrate that "the*

proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.”

- C. There are no existing violations of this Ordinance on the property that the granting of this special exception would not remedy. *Note: Staff is not aware of any Zoning Ordinance violations on the property.*
- D. The character of the area shall not be adversely affected.
- E. No hazard or nuisance will be created.
- F. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- G. Granting the special exception will not result in undue municipal expense.
- H. The proposed special exception will be developed in a manner compatible with the spirit and intent of the Ordinance.
- I. The general welfare of the City will be protected.

The applicant has submitted testimony addressing the §801.3 criteria in an application received by the Planning & Development Department on February 18, 2020 (see attached).

### **STAFF COMMENTS**

Staff recommends that the Board require the applicant to produce a site plan to demonstrate that the minimum number of parking spaces required per Section 607 of the Zoning Ordinance can be accommodated on site, in addition to whatever number of parking spaces are needed for service vehicles that will be parked on-site overnight. Such a requirement could be made a condition of approval.

The application materials do not indicate how the site will be utilized. Any Variance approval should make it explicitly clear whether outdoor storage areas are permitted, and if so, where on the site and for what purposes.

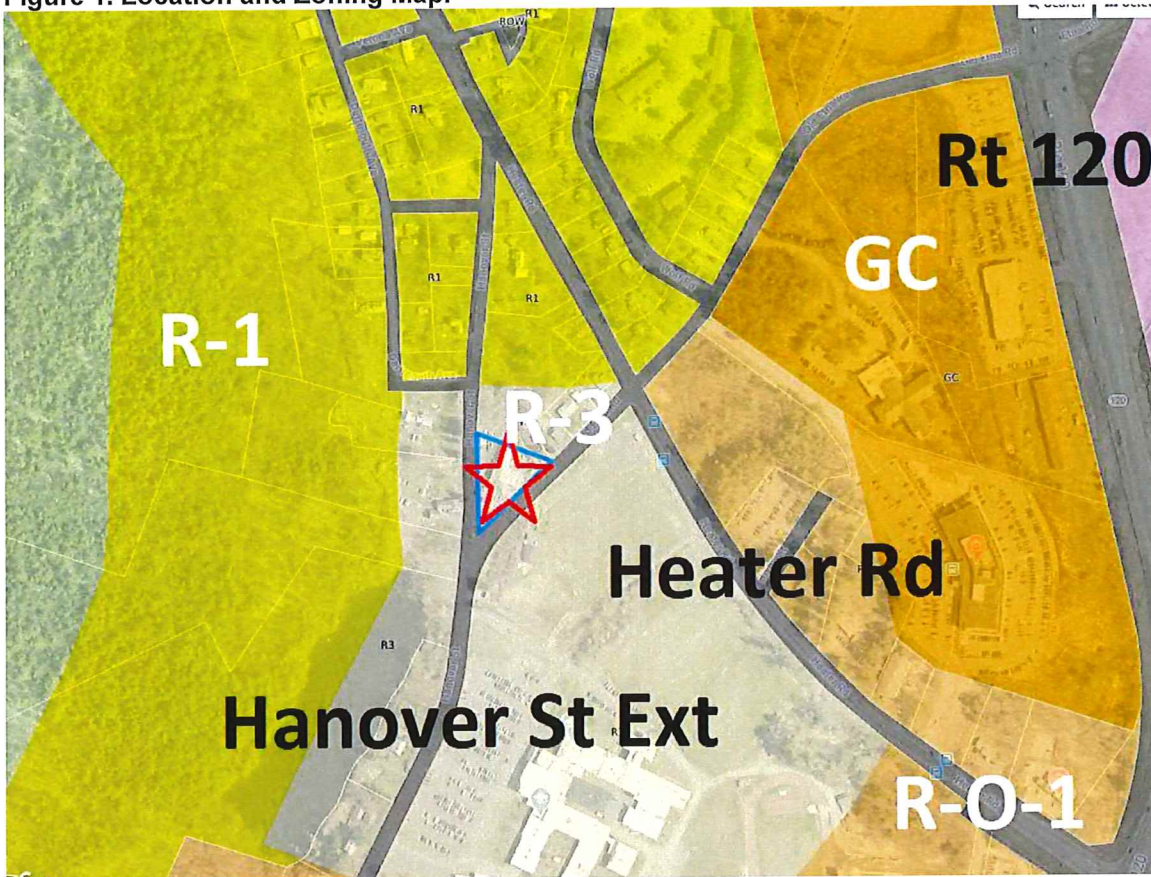
The application materials do not include any information on the scope of the business, its operations, number of employees, hours, etc. Staff recommends that the Board solicit sufficient testimony and detail to ensure that the proposed use meets the requirements of Section 702.1.

Finally, it is not clear based on the information provided whether site plan review will be required. Regardless, the Zoning Board should consider whether site plan review should be made a condition of any Variance approval.

Attachment

cc: Eugene Boisvert (via e-mail)  
File

**Figure 1. Location and Zoning Map.**



**Figure 2. Aerial View of Subject Property (looking west).**



©2018 Eagleview (image taken 5/1/2018)

# CITY OF LEBANON APPLICATION FOR

SPECIAL EXCEPTION <input checked="" type="checkbox"/>	SITE PLAN REVIEW <input type="checkbox"/>
VARIANCE <input type="checkbox"/>	SUBDIVISION <input type="checkbox"/>
MOTION FOR REHEARING <input type="checkbox"/>	LOT LINE ADJUSTMENT <input type="checkbox"/>
APPEAL OF AN ADMIN. DECISION <input type="checkbox"/>	CONDITIONAL USE PERMIT <input type="checkbox"/>

☐ OTHER \_\_\_\_\_

## PROPERTY OWNER (APPLICANT):

NAME: Eugene Boisvert TEL.#: 603-298-6888 or 603-359-2200  
MAILING ADDRESS: 2 Pasture Lane, West Lebanon NH 03766  
E-MAIL ADDRESS: info@eugeneboisvert.com

## CO-APPLICANT, AGENT, OR LESSEE:

NAME: → EM + EE Boisvert SK, CO-TREES TEL.#:  
MAILING ADDRESS:  
E-MAIL ADDRESS:

## PROJECT LOCATION:

TAX MAP #: 604 LOT#: 2 PLOT #: ZONE: R3  
STREET ADDRESS OF PROJECT: 237 Hanover Street, Lebanon NH  
IS THIS PROPERTY LOCATED IN THE: WETLANDS ☐ YES ☒ NO HISTORIC DISTRICT ☐ YES ☒ NO  
FLOOD PLAIN ☐ YES ☒ NO

## SCOPE OF PROJECT:

\* Change use of building to offices, storage & recycling  
automotive repair - multi use

## TYPE OF OCCUPANCY:

EXISTING ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL  
PROPOSED ☐ VACANT ☐ ONE FAMILY ☐ TWO FAMILY ☐ MULTI-FAMILY ☒ COMMERCIAL ☐ INDUSTRIAL  
IF USE IS COMMERCIAL OR INDUSTRIAL, PLEASE NOTE SPECIFIC USE:

## SIGNATURE BLOCK:

**FOR PLANNING BOARD APPLICATIONS ONLY:** I, the undersigned, hereby submit this application on the date noted below with the knowledge and understanding that the Planning Board shall determine if the submitted application is complete according to its regulations at its next regularly scheduled meeting on March 2, 2020, unless I personally request, in writing, that the Board delay its determination of completeness to a later date.

PROPERTY OWNER: [Signature] DATE: 2-18-2020

**NOTE: IF, AS OWNER, YOU WISH TO DESIGNATE AN AGENT TO ACT ON YOUR BEHALF, PLEASE READ THE FOLLOWING AND SIGN BELOW:** I hereby designate the person listed above as my agent for the purpose of procuring the necessary local permits for the proposed work as described herein. Representations made by my agent may be accepted as though made by me personally, and I understand that I am bound by any official decision made on the basis of such representation.

PROPERTY OWNER: \_\_\_\_\_ DATE: \_\_\_\_\_

DATE RECEIVED	FILE # (MAP/LOT)	APPLICATION #	FEE - \$ AMOUNT	DATE PAID	VOUCHER #
2/18/2020	604-2	ZB2020-	\$213 <sup>00</sup>	2-18-2020	17579

07-SE

**CITY OF LEBANON, NEW HAMPSHIRE  
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION**

One cover application, one abutters list, a filing fee and ten copies of the site plan must accompany this support statement.

I (we) hereby request a Special Exception as provided for in Article(s) VII,  
Section(s) 200, 702.1 & 704, of the Lebanon Zoning Ordinance.

**PROJECT DESCRIPTION** *(Please provide your plans for the property with as much detail as possible with respect to your proposed. You can respond in the space provided, or attach a separate statement.)*

Nordic Waste Services, LLC will use the facility primarily for maintenance and storage of vehicles, equipment and support assets such as unused trash cans. Additionally Nordic Waste will maintain their offices on site as well as complete indoor, small scale recycling sorting.

**In order to grant a Special Exception, the Zoning Board of Adjustment must make affirmative findings of certain conditions. Those conditions are listed below:**

*(You can respond in the space provided, or attach a separate statement. Please be prepared to address the conditions with the Board during your public hearing. You must show that you have met all the conditions.)*

**SECTION 801.3 Special Exceptions** - To hear and decide special exceptions to the terms of this ordinance upon matters which the Board is required to pass under this ordinance. In passing upon any application for a special exception, the Board shall make each of the following findings:

A. That the special exception is specifically authorized by a provision of this ordinance:

See Attach

B. That all special conditions required of the special exception have been met:

I am unaware of any special conditions required for this special exception

C. That there are no existing violations of this ordinance on the property that the granting of this special exception would not remedy:

There are no existing violations.

CITY OF LEBANON, NEW HAMPSHIRE  
SUPPORT STATEMENT FOR A SPECIAL EXCEPTION  
Page 2

D. That the character of the area shall not be adversely affected:

The character of the area will not be adversely affected

E. That no hazard or nuisance will be created:

There will be no hazard or nuisance created

F. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted:

There will be No impact

G. That granting the special exception will not result in undue municipal expense:

There will be No municipal expense

H. That the proposed special exception will be developed in a manner compatible with the spirit and intent of the ordinance:

The property will be developed in a manner consistent and compatible with the intent of the ordinance

I. That the general welfare of the City will be protected:

yes, the general welfare of the City will be protected

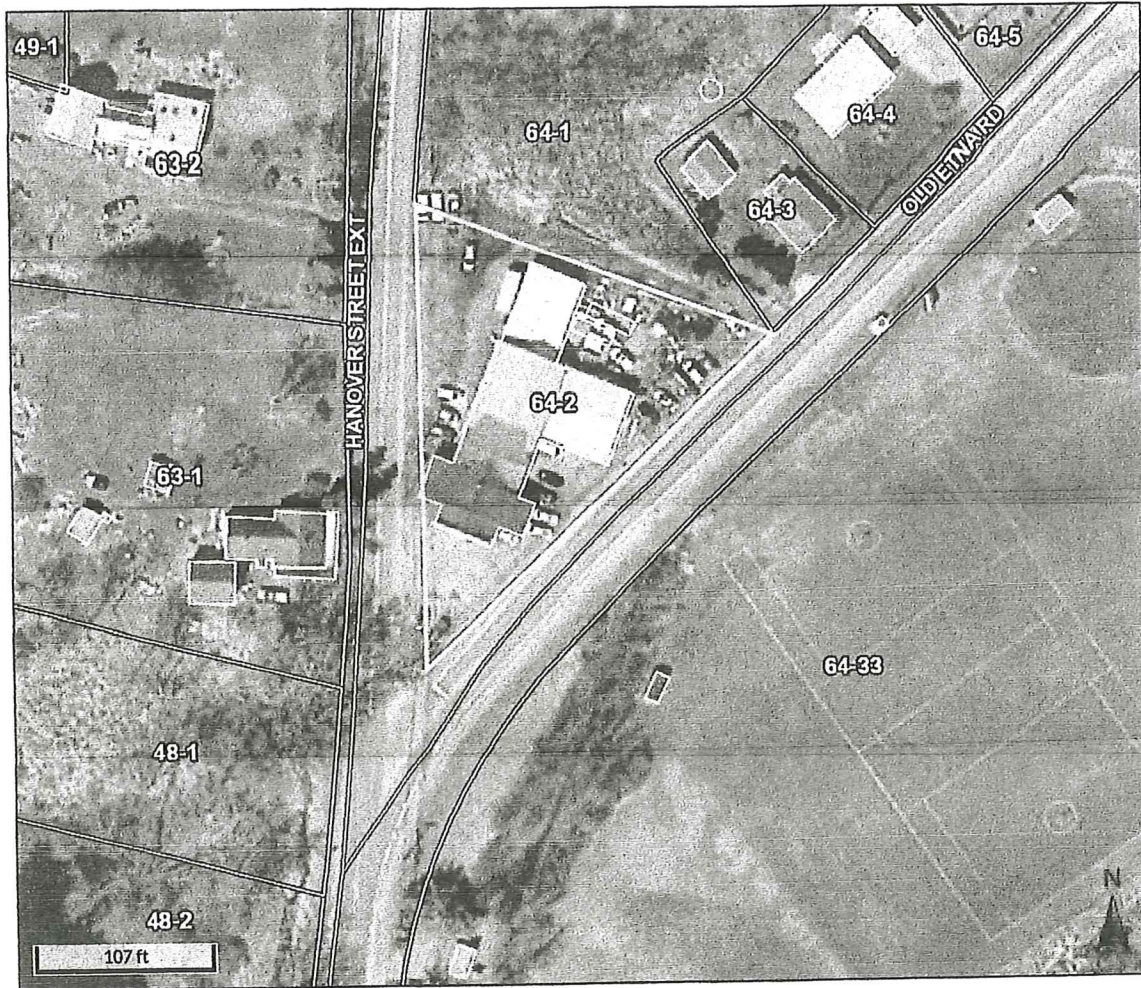
**Please Note:**

Pursuant to Section 802.4B, "Special Conditions", the Board may attach whatever conditions it deems necessary in order to assure compliance with the purposes of this ordinance.

A special exception shall expire if: (1) the use is not in place within two years of the date of issuance of a zoning permit or approval by the Zoning Board of Adjustment for a special exception or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a special exception must be completed.

-  A. The City of Lebanon Zoning Ordinance (Last Amended March 6, 2019) Section 702.1 states:

A conforming use shall not be changed to a non-conforming use. A non-conforming use may, as a special exception, be changed to another non-conforming use provided that the Board of Adjustment shall find the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. (Emphasis added.)



Overview

Legend

- Roads
- Buildings
- Parcel Labels
- Parcels

Parcel ID 64-2  
Sec/Twp/Rng n/a  
Property Address 237 HANOVER ST EXT  
LEBANON

Alternate ID 646  
Class AUTO REPAIR  
Acreage n/a

Owner Address BOISVERT, EUGENE E  
2 PASTURE LN  
WEST LEBANON, NH 03784

District Leb  
Brief Tax Description n/a

(Note: Not to be used on legal documents)

Date created: 1/21/2020  
Last Data Uploaded: 12/25/2019 5:14:11 PM

Developed by  Schneider  
GEOSPATIAL